

#7/1651
NP4053
- 52 PATENT
10-20-01

Certificate of Mailing under 37 CFR 1.8

that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this 17 day of October, 2001.

By: Tom Kell

RECEIVED
DEC - 7 2001
TECH-CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ernesto Brovelli et al.
Serial No: 09/575307
Filing Date: 5/19/00
Examiner: Meller, M
Group Art: 1651
For: ECHINACEA INDUCTION OF PHASE II ENZYMES

Assistant Commissioner of Patents
Washington, D.C. 20231

RESPONSE TO OFFICE ACTION

This communication is in response to the Office Action mailed July 17, 2001. Please consider the following amendments and remarks:

Amendment

In the Specification

On page 3, line 4 of the specification, please add OF THE INVENTION after

a₁

"SUMMARY".

Remarks

Claims 1-16 are pending in this application. Due to a restriction requirement, Applicants elect claims 7-11.

Examiner rejected claims 7-11 under §112, paragraph 2, stating that the terms "lipid-soluble" and "chloroform-soluble are vague and indefinite. Applicants respectfully traverse.

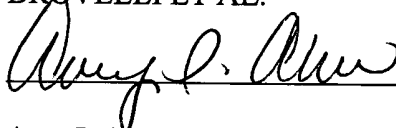
One of ordinary skill in the art would understand that "lipid-soluble" means that the *Echinacea* extract is soluble in a lipid. The term "chloroform-soluble" is explained on page 7. Reading the specification, one of ordinary skill in the art would understand that "chloroform-soluble" means that, not only is the extract soluble in chloroform, but it is chloroform-soluble because the extract is extracted with chloroform. Accordingly, Applicants request removal of this rejection.

Examiner also rejected claims 7-11 under §103. Applicants respectfully traverse. Examiner cites Menon et al. (U.S. 6,217,878) as the primary reference. However, under §103(c) Menon et al. does not preclude patentability because *the subject matter in Menon et al. and the present claimed invention were, at the time of the invention was made, subject to an obligation of assignment to the same entity*. Menon et al. is assigned to Amway Corporation as evidenced on the front page of the patent. The present invention is also assigned to Amway Corporation; the assignment is recorded at the PTO, reel/frame 011158/0657. Accordingly, Applicants request removal of these rejections.

Applicants believe that the pending claims are in condition for allowance. If, for any reason, the Examiner feels that the above amendments and remarks do not put the claims in condition for allowance, please contact the undersigned attorney to resolve any remaining issues.

Respectfully Submitted,

BRQVELLI ET AL.



Amy I. Ahn
Registration No. 44,498
Attorney for Applicant
ALTICOR INC. (fka Amway Corporation)
7575 Fulton Street East
Ada, Michigan 49355-0001
(616) 787-8208